

AGRICULTURE AFFAIRS COMMITTEE

ADMINISTRATIVE RULES REVIEW

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2007 Legislative Session

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IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.06.31 - IDAHO DEPARTMENT OF AGRICULTURE NOXIOUS WEED FREE FORAGE AND STRAW CERTIFICATION RULES

DOCKET NO. 02-0631-0601 (FEE RULE)

NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 22-2403 and 22-2404(J), Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

Update the title of the National standard that ISDA follows for field inspection procedures; delete portions that are not scientifically sound; add definitions; add language to address new products (Forage Cubes/Pellets) to be certified; upgrade the distribution requirements; and correct a reference to the Weed Law that is incorrect.

A request was made by a producer to explore a new method of certifying a new and emerging type of feed product. Language was added to the text of the pending rule to reflect the request and are published with this Notice of Rulemaking. Also, language was added to clarify that cubes/pellets can only be certified to one standard.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The original text of the proposed rule was published in the October 4, 2006 Idaho Administrative Bulletin, Vol. 06-10, pages 67 through 77.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Section 22-2412, Idaho Code.

The inspection fees were slightly decreased for larger fields to be inspected.

Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:
N/A

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Docket No. 02-0631-0601 (Fee Rule)

Noxious Weed Free Forage and Straw Certification Rules

PENDING FEE RULE

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Dan Safford, Noxious Weed Program Specialist at (208) 332-8692.

DATED this 14th day of November, 2006.

THIS NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 22-2403 and 22-2404(J), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 18, 2006.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

To shorten the rule title; update the title of the National standard that Isda follows for field inspection procedures, delete sections, add definitions, add language to address forage cube certification, upgrade the distribution requirements and correct a reference to the Idaho Noxious Weed Law.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased:

The inspection fees were slightly decreased for larger fields to be inspected.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Dan Safford, Noxious Weed Specialist at (208) 332-8592.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 25, 2006.

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DEPARTMENT OF AGRICULTURE
Noxious Weed Free Forage and Straw Certification Rules

Docket No. 02-0631-0601 (Fee Rule)
PENDING FEE RULE

DATED this 14th day of August, 2006.

Patrick A. Takasugi
Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 790
Boise, Idaho 83701
Phone: (208) 332-8503
Fax: (208) 334-2170

THE FOLLOWING IS THE TEXT OF THE PENDING FEE RULE

001. TITLE AND SCOPE.

01. Title. The title of this chapter is the “~~Idaho Department of Agriculture~~-Noxious Weed Free Forage and Straw Certification Rules”. (3-10-00)(____)

02. Scope. This chapter has the following scope: these rules shall govern the inspection and certification of noxious weed free forage and straw to allow for the transportation and sale of forage and straw into and through states where regulations and restrictions are placed on such commodities. The official citation of this chapter is IDAPA 02.06.31.000 et seq. For example, the citation for this section is IDAPA 02.06.31.001. (3-10-00)

(BREAK IN CONTINUITY OF SECTIONS)

004. INCORPORATION BY REFERENCE.

There are no documents incorporated by reference in this chapter. (____)

005. ~~FINDINGS~~ OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.

~~The amendments are in compliance with House Bill No. 244 of the 1999 Legislature and confer a benefit by deleting obsolete provisions relative to the certification of forage pellets, deleting the requirement for transit load tags, clarifying rules relative to the certification of baled and cubed forage or straw, clarifying existing language, and establishing a schedule of fees that may be charged by the certifying agent.~~ (3-10-00)

01. Office Hours. Office hours are 8 a.m. to 5 p.m. Mountain Time, Monday through Friday, except holidays designated by the state of Idaho. (____)

02. Mailing Address. The mailing address for the central office is Idaho State Department of Agriculture, P.O. Box 790, Boise, Idaho 83701. (____)

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03. Street Address. The central office is located at 2270 Old Penitentiary Road, Boise, Idaho, 83712. ()

(BREAK IN CONTINUITY OF SECTIONS)

00410. DEFINITIONS.

The definitions found in Section 22-2402, Idaho Code, apply to this chapter. In addition, as used in this chapter: (7-1-94)

01. Agent. *Means* Any instrumentality or entity authorized by the director of the department, and acting on behalf of the department, to administer the provisions of this rule. Any designated agent shall act in an official capacity for the department and under the supervision of the director of the department. The principal purpose of the agent is to establish, conduct, and maintain a uniform and reasonable system of inspection and certification of forage and straw crops to determine if such crops are noxious weed free. (3-10-00)()

02. Approved Inspector. *Means* An individual who has been accredited by the department or by the department's agent in the noxious weed free forage and straw certification program. (3-10-00)()

03. Bale. *Means* A mechanically compressed package of forage or straw bound by string or wire, or other binding material. (7-1-94)()

04. ~~Bale Certification Inspection.~~ *~~Means inspection of forage or straw which has been baled prior to inspection.~~* (3-10-00)

054. Bale Tag. *Means* A tag or label which is attached to the string or wire, or other binding material of a bale of certified forage or straw, and identifies the bale as being certified noxious weed free. (3-10-00)()

065. Certificate of Inspection. *Means* A record of inspection issued by an approved inspector that states the results of a field or commodity inspection. The certificate shall document that the inspected field or commodity is Idaho state noxious weed free, ~~regional noxious weed free~~, North American Noxious Weed Free, or that the field or commodity contains noxious weeds. (3-10-00)()

076. Certification. *Means* The process whereby an approved inspector conducts field or commodity inspections to determine that the field or commodity is noxious weed free. (3-10-00)()

07. Certification Markings. Bale tags, blue and orange colored twine, compressed forage bale binding material, and forage cubes/pellets container tags/labels. ()

08. Certified Compressed Forage Bale Binding Material. *An ISDA approved binding*

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material which is attached to a compressed forage bale of certified noxious weed free forage and identifies the bale as being certified as North American Noxious Weed Free. ()

09. Compressed Forage Bale. *A bale that has been twice compressed, once in the field by a forage baler and then recompressed a second time and bound by string, wire or other binding material.* ()

~~08~~**10. Department.** *Means* The Idaho State Department of Agriculture. (~~7-1-94~~)()

~~09~~**11. Field.** *Means* The land on which a forage or straw crop is grown and is not divided by streams, public roads, other crops, or other barriers. (~~3-10-00~~)()

102. Field Certification Inspection. *Means* An on-site inspection of forage or straw in the field, and areas adjacent to the field, for the presence of noxious weeds. The inspection shall be conducted prior to cutting or harvesting. (~~3-10-00~~)()

113. Forage. *Means* Alfalfa, grain, and grass hay, and/or combinations of alfalfa, grain, or grass hay; the term “forage” includes forage cubes, compressed forage bales, and pellets. (~~3-10-00~~)()

124. Forage Cubes. *Means* Forage that is harvested from a field certified to North American Standards and is mechanically compacted into wafers or cubes. (~~3-10-00~~)()

15. Forage Cube/Pellet Tag. *A tag or label which is attached to a container of certified noxious weed free forage cubes or pellets, and identifies the container as being certified as North American Noxious Weed Free.* ()

156. Idaho State Noxious Weed Free. *Means* Forage and straw inspected for weeds designated by the director as noxious as defined in Section 22-2402(~~9~~15), Idaho Code, and determined to be free of such weeds. (~~3-10-00~~)()

17. Idaho State Noxious Weed Free Standards. *Forage and straw that meets the requirements Idaho State Noxious Weed Free.* ()

168. ~~Regional Noxious Weed Free~~ North American Noxious Weed Free. *Means* Forage and straw inspected for, and determined to be free of, weeds designated as noxious by ~~states participating in a regional noxious weed free forage and straw certification program, including but not limited to the following: Colorado, Idaho, Montana, Utah, and Wyoming~~ the director as defined in Section 22-2402(15) Idaho Code and noxious weeds listed on the North American Weed List. (~~3-10-00~~)()

172. North American Weed Free Forage Certification Program. *The North American Weed Management Association standard for forage certification.* ()

20. North American Twine. *Blue and orange colored twine that is used to mark bales as certified to the North American Weed Free Forage Standard.* ()

21. North American Standards. *Requirements of the North American Weed Free*

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Forage Certification Program.

()

~~4322.~~ **Noxious Weed Free.** *Means* No noxious weeds with viable seed, injurious portions, or propagating parts were found during inspection procedures. (~~3-10-00~~)()

~~4423.~~ **Official Sample.** *Means* A sample taken by an approved inspector.

(~~3-10-00~~)()

24. Pellets. Forage that is harvested from a field certified to North American Standards and is manufactured into an agglomerated feed, formed by compacting and forcing through die openings by a mechanical process. ()

~~4725.~~ **Straw.** *Means* The dried stalks or stems remaining after grain is harvested.

(~~7-1-94~~)()

~~4826.~~ **Transit Certificate.** *Means* A document completed by an approved inspector to authorize the movement of noxious weed free certified forage bales or straw bales into or through areas which require noxious weed free forage and straw certification. The transit certificate must be in the possession of the transporter. If individual bales are tagged with an approved bale tag, a transit certificate is not required. (~~3-10-00~~)()

011. ABBREVIATIONS.

01. ISDA. The Idaho State Department of Agriculture.

()

02. NAWMA. North American Weed Management Association.

()

03. NWFF&S. Noxious Weed Free Forage and Straw.

()

012. -- 099. (RESERVED).

0100. VOLUNTARY NOXIOUS WEED FREE FORAGE AND STRAW CERTIFICATION PROGRAM.

01. Purpose. The noxious weed free forage and straw certification program is a voluntary program, the purpose of which is to provide a means for the inspection and certification of forage and straw as noxious weed free. The program will be managed by the department and may be implemented through an agent of the department. The program will allow for the transportation, possession, storage, and sale of forage and straw into and through states which place regulations and restrictions on such commodities. The program is intended to reduce the exportation, importation, growth, and spread of noxious weeds. (~~3-10-00~~)()

02. Certifying Authority. The department or its agent is the certifying authority. The certifying authority shall appoint, as needed, approved inspectors throughout the state, who may issue certificates of inspection. (3-10-00)

03. Certification Training. The department shall determine minimum training and accreditation standards for approved inspectors. Training will be provided annually by the

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department or its agent. ~~Approved inspectors must be re-accredited annually.~~ Attendance at annual training will certify accreditation for the inspector for that calendar year. Approved inspectors will be issued a certificate of training for the calendar year. Annual training shall include: ~~(3-10-00)~~(____)

a. Field inspection techniques and procedures; (____)

b. ISDA and North American Noxious weed list plant identification; (____)

c. ISDA and North American certification standards and guidelines; (____)

d. Knowledge of weed management, including: (____)

i. Burning; (____)

ii. Mowing, cutting or roguing; (____)

iii. Mechanical methods; and (____)

iv. Herbicides. (____)

e. Inspection forms. (____)

04. Certification Program. (3-10-00)

a. The department or its agent shall: (3-10-00)

i. Coordinate forage and straw inspections within the state; (3-10-00)

ii. Select, train, and supervise persons who serve as approved inspectors; (3-10-00)

iii. Issue certificates of inspection, transit certificates, North American Twine, forage cubes/pellets tags/labels, certified compressed forage bale binding material, and bale tags to qualifying participants; ~~(3-10-00)~~(____)

iv. Maintain a record of inspections performed and certificates and tags issued; (7-1-94)

b. Under the direction of the department or its agent an approved inspector may perform inspections and issue certificates of inspection, transit certificates, North American Twine, forage cubes/pellets tags/labels, and bale tags within the state at cost. ~~(3-10-00)~~(____)

05. Application for Certification. (7-1-94)

a. Application for certification inspection shall be made on forms available from a the department or its agent and submitted to the department or its agent. (3-10-00)

~~**b.** Applications for bale certification inspections or for the official sampling and~~

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~~certification of cubed forage, in cases wherein forage or straw has not been field inspected prior to being baled or cubed, must be submitted to the department or its agent no later than ten (10) working days prior to the desired inspection date.~~ (3-10-00)

eh. An applicant's signature on the application for certification is verification of the accuracy of the information submitted, and signifies the applicant's intent to comply with the post-certification and distribution requirements. (3-10-00)

06. Field Inspection Procedures. (7-1-94)

a. Forage or straw shall be inspected within ten (10) days prior to harvest in the field of origin ~~prior to the beginning of harvest~~ for each field and cutting to be certified. (7-1-94)()

b. Each field inspected shall be identified by the name of the owner and a field name or number. The certification inspection may be performed on an entire field or a portion of a field, if the portion is plainly marked and identified prior to inspection. (3-10-00)

c. Field inspections must take place prior to any ~~cultural~~ operation that will limit the approved inspector's ability to properly inspect and certify the field. Fields that have been cut or harvested prior to inspection are ineligible for certification. (3-10-00)()

d. ~~When performing field certification inspections, the approved inspector shall inspect the field in a manner which complies with procedures established by the department or its agent.~~ There shall be a minimum of two (2) entry points per field. (3-10-00)()

e. There shall be minimum of one (1) entry point per each ten (10) acres. ()

f. Each point of entry shall be at least one-hundred fifty (150) feet into the field, and each additional one-hundred fifty (150) feet traveled shall constitute an entry point. Travel shall be uninterrupted, proceeding through the field being inspected. ()

g. The entire field border shall be physically inspected. ()

h. The field inspection will include all ditches, fence rows, roads, easements, rights-of-way, or buffer zones surrounding the field. ()

i. Forage which contains any noxious weeds as identified in Section 22-2402(15) or noxious weeds listed on the North American Noxious Weed List, may be certified if the following requirements are met: ()

i. Field upon which the forage was produced was treated to prevent seed formation or seed ripening to the degree that there is no danger of dissemination of the seed, or any injurious portion thereof from such noxious weeds, or undesirable plant species, or the propagating parts of the plant are not capable of producing a new plant; ()

ii. Noxious weed(s) were treated not later than rosette to bud stage, or boot stage for grass species classified as noxious weeds, prior to cutting or harvesting; and ()

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iii. Treatment method can include, but is not limited to burning, mowing, cutting or roguing, mechanical methods, or chemicals. ()

j. An inspection certificate shall document that the above requirements have been met. ()

k. Baling equipment must be cleaned of any noxious weeds prior to harvesting certified forage. If the baling equipment is not cleaned, the first three (3) small square bales or the first large round or square bale produced shall be considered non-certified. ()

l. Interstate shipment of baled forage and straw shall be accompanied by an original transit certificate issued by the approved inspector in the county of origin. The storage area shall also be inspected and shall be free of noxious weeds. ()

m. An approved inspector may not inspect fields of which said inspector has ownership or financial interest. ()

~~07. **Bale Inspection Procedures.** When performing bale certification inspections, for forage or straw that was not field inspected, the approved inspector shall inspect the bales in a manner which complies with procedures established by the department or its agent. When performing bale certification inspections, the approved inspector shall:~~ (3-10-00)

~~a. Inspect not less than one (1) bale for each twenty-five (25) bales for which certification is requested.~~ (3-10-00)

~~b. Randomly select bales for inspection.~~ (3-10-00)

~~08. **Cubed Forage Inspection Procedures.** Cubed forage that has not been field inspected may be certified under the following conditions:~~ (3-10-00)

~~a. The cubed forage shall be officially sampled.~~ (3-10-00)

~~b. A minimum official sample shall be taken of five (5) pounds up to one (1) ton, and five (5) pounds per ton thereafter.~~ (3-10-00)

~~c. The official sample shall be sent to the Idaho State Seed Laboratory or other Association of Official Seed Analysts laboratories, as approved by the department or its agent.~~ (3-10-00)

~~d. A germination test shall be performed on the official sample, and found to contain no viable noxious weed seeds.~~ (3-10-00)

~~09. **Certification Standards.** After completing an inspection, the approved inspector shall complete a certificate of inspection.~~ (3-10-00)

a. If the field or commodity inspected is certified as ~~regional~~ North American Noxious Weed Free, the approved inspector shall issue a certificate of inspection for that harvest or cutting. If the field or commodity contains ~~regional~~ North American Noxious Weeds, but does

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not contain Idaho State noxious weeds, it may be certified as Idaho State noxious weed free, and such certification shall be noted on the certificate of inspection. (3-10-00)()

b. If the field or commodity inspected is certified as noxious weed free, as defined in these rules, the approved inspector may also issue, upon request, any of the following documents: (3-10-00)()

i. Transit certificates. (7-1-94)

ii. Bale tags. (7-1-94)

iii. North American Twine only if the field or commodity is certified as North American Noxious Weed Free. ()

iv. Forage cube/pellet tag/labels only if the field or commodity is certified as North American Noxious Weed Free. ()

v. Certified compressed forage bale binding material only if the field or commodity is certified as North American Noxious Weed Free. ()

c. Certificates of inspection, transit certificates and bale tags shall be on forms prescribed by the department or its agent. (3-10-00)

d. Certificates of inspection, transit certificates, North American Twine, North American Noxious Weed Free Forage cubes/pellets tags/labels, certified compressed forage bale binding material, and bale tags ~~will be available~~ must be purchased from the department or its agent. (3-10-00)()

408. Copy of Inspections and a List of Approved Inspectors. Upon request, the agent shall provide the department with a copy of certificates of inspections issued and a current list of approved inspectors. (3-10-00)

409. Reciprocity. Forage or straw certified under a reciprocal agreement between the department and another state, and certified as ~~regional~~ North American Noxious Weed Free according to the other state's approved certification standards, may be shipped into the state of Idaho and shall be considered to meet the requirements of the Idaho program. (3-10-00)()

120. Exports. Certification under these rules does not qualify a commodity for export from the United States. Applications for certification for export should be made directly to the Division of Plant Industries within the department. (3-10-00)

131. Voluntary Posting. After certification, a producer may post signs, or other forms of notification, on the certified commodity indicating that the commodity is certified as noxious weed free. (3-10-00)

142. Post-Certification and Distribution Requirements. After a producer's commodity has been inspected and certified, the producer, ~~distributor, or other responsible party~~ shall: (3-10-00)()

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a. Take reasonable and prudent steps to protect the certified commodity from contamination; (7-1-94)

b. Keep the certified commodity separated from all uncertified commodity; (3-10-00)

c. Attach bale tags, certified compressed forage bale binding material, or North American Twine to each bale of certified forage or straw intended for sale as noxious weed free forage or straw prior to the bales leaving the producers stack yard or storage area; and ~~(3-10-00)~~(____)

d. Attach cube/pellet tag/label to each container of certified forage cubes/pellets intended for sale as noxious weed free forage prior to the containers leaving the producer's facility. (____)

~~d.~~ Provide the shipper, trucker, or transporter with the appropriate number of transit certificates. (3-10-00)

153. Cancellation for Failure to Comply. Any person who provides false information on an application for inspection or who fails to comply with the post-certification and distribution requirements may, upon order of the director, be suspended for a period of up to two (2) years from participating in the forage and straw certification program. (7-1-94)

164. Enforcement and Cancellation. Harvested lots of forage or straw from certified fields may be checked at any time by an ~~an certification~~ approved inspector. Manufactured lots of forage cubes, pellets, and compressed forage bales may be checked at any time by an approved inspector. Evidence that forage, ~~or~~ straw, ~~is~~ forage cubes/pellets, or compressed forage bales are not from an ~~inspected~~ certified field or that any lot has not been protected from contamination shall be cause for cancellation of certification. ~~(3-10-00)~~(____)

15. Misuse of Transit Certificate and Certification Markings. Using a transit certificate or certification marking for forage from a field that has not been certified shall constitute a violation of these rules. (____)

176. Certification Fees. A minimum of thirty dollars (\$30) per inspection shall be charged for up to ten (10) acres, and three dollars (\$3) per acre thereafter, for fields up to ninety-nine (99) acres. Fields that are one-hundred (100) acres or larger in size, the fee is three dollars (\$3) per acre for the first one-hundred (100) acres and two dollars (\$2) per acre thereafter. The agent is authorized to assess a general fee of thirty dollars (\$30) per year to recover overhead costs. The agent may waive the general fee if the applicant has already been assessed a similar fee for other types of crop inspections. ~~(3-10-00)~~(____)

~~0101. -- 99149.~~(RESERVED).

150. NORTH AMERICAN NOXIOUS WEED LIST.

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Common Name	Scientific Name
<u>Absinth wormwood</u>	<u>Artemisia absinthium</u>
<u>Bermudagrass</u>	<u>Cynodon dactylon</u>
<u>Buffalobur</u>	<u>Solanum rostratum</u>
<u>Canada thistle</u>	<u>Cirsium arvense</u>
<u>Common burdock</u>	<u>Arctium minus</u>
<u>Common crupina</u>	<u>Crupina vulgaris</u>
<u>Common tansy</u>	<u>Tanacetum vulgare</u>
<u>Dalmatian toadflax</u>	<u>Linaria dalmatica</u>
<u>Diffuse knapweed</u>	<u>Centaurea diffusa</u>
<u>Dyers woad</u>	<u>Isatis tinctoria</u>
<u>Field bindweed</u>	<u>Convolvulus arvensis</u>
<u>Hemp (marijuana)</u>	<u>Cannabis sativa</u>
<u>Henbane, Black</u>	<u>Hyoscyamus niger</u>
<u>Hoary cress</u>	<u>Cardaria spp.</u>
<u>Horsenettle</u>	<u>Solanum carolinense</u>
<u>Houndstongue</u>	<u>Cynoglossum officinale</u>
<u>Johnsongrass</u>	<u>Sorghum halepense</u>
<u>Jointed goatgrass</u>	<u>Aegilops cylindrica</u>
<u>Leafy spurge</u>	<u>Euphorbia esula</u>
<u>Matgrass</u>	<u>Nardus stricta</u>
<u>Meadow knapweed</u>	<u>Centaurea pratensis</u>
<u>Medusahead</u>	<u>Taeniatherum caput-medusae</u>
<u>Milium</u>	<u>Milium vernale</u>
<u>Musk thistle</u>	<u>Carduus nutans</u>
<u>Orange hawkweed</u>	<u>Hieracium aurantiacum</u>
<u>Oxeye daisy</u>	<u>Chrysanthemum leucanthemum</u>
<u>Perennial pepperweed</u>	<u>Lepidium latifolium</u>
<u>Perennial sorghum</u>	<u>Sorghum almum</u>
<u>Perennial sowthistle</u>	<u>Sonchus arvensis</u>
<u>Plumeless thistle</u>	<u>Carduus acanthoides</u>
<u>Poison hemlock</u>	<u>Conium maculatum</u>
<u>Puncturevine</u>	<u>Tribulus terrestris</u>
<u>Purple loosestrife</u>	<u>Lythrum salicaria</u>
<u>Quackgrass</u>	<u>Agropyron repens</u>

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DEPARTMENT OF AGRICULTURE

Docket No. 02-0631-0601 (Fee Rule)

Noxious Weed Free Forage and Straw Certification Rules

PENDING FEE RULE

Common Name	Scientific Name
<u>Rush skeletonweed</u>	<u>Chondrilla juncea</u>
<u>Russian knapweed</u>	<u>Centaurea repens</u>
<u>Scentless chamomile</u>	<u>Anthemis arvensis</u>
<u>Scotch broom</u>	<u>Cytisus scoparius</u>
<u>Scotch thistle</u>	<u>Onopordum acanthium</u>
<u>Sericea Lespedeza</u>	<u>Lespedeza cuneata</u>
<u>Silverleaf nightshade</u>	<u>Solanum elaeagnifolium</u>
<u>Skeletonleaf bursage</u>	<u>Ambrosia tomentosa</u>
<u>Spotted knapweed</u>	<u>Centaurea maculosa</u>
<u>Squarrose knapweed</u>	<u>Centaurea virgata</u>
<u>St. Johnswort</u>	<u>Hypericum perforatum</u>
<u>Sulfur cinquefoil</u>	<u>Potentilla recta</u>
<u>Syrian beancaper</u>	<u>Zygophyllum fabago</u>
<u>Tansy ragwort</u>	<u>Senecio jacobaea</u>
<u>Toothed spurge</u>	<u>Euphorbia dentata</u>
<u>Wild oats</u>	<u>Avena fatua</u>
<u>Wild proso millet</u>	<u>Panicum miliaceum</u>
<u>Yellow hawkweed</u>	<u>Hieracium pratense</u>
<u>Yellow starthistle</u>	<u>Centaurea solstitialis</u>
<u>Yellow toadflax</u>	<u>Linaria vulgaris</u>

()

151. -- 199. (RESERVED).

200. APPLICATION FORM REQUIREMENTS.

A person wishing to participate in the noxious weed free forage and straw program shall make an application for NWFF&S certification annually. There are no fees for application. The application shall be made with the ISDA agent in the county in which the person resides or in the county in which the person owns or leases land on which forage will be produced. The request for application shall be made in writing on application forms prescribed by ISDA. ()

201. -- 249. (RESERVED).

250. CERTIFICATION MARKING.

Each certified bale or container shall be marked by one (1) of the following: ()

01. North American Twine. Only one (1) strand is required per bale. ()

02. Forage Tag. The following information shall be shown on baled forage: ()

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PENDING FEE RULE

a. The words - “North American Weed Free Forage Certification Program” or “Idaho State Noxious Weed Free Forage & Straw Certification Program”; ()

b. Bale tag serial number; ()

c. County of origin identification; ()

d. ISDA emblem; ()

e. ISDA telephone number; and ()

f. A statement that the product is “Certified to the North American Standards” or “Certified to the Idaho State Noxious Weed Free Standards.” ()

03. Forage Cube/Pellet Tag/Label. Certification tags/labels shall be attached to or a statement with the following information shall be printed on each container of noxious weed free product: ()

a. The words - “North American Weed Free Forage Certification Program”; ()

b. ISDA forage manufacturer identification number; ()

c. ISDA emblem; ()

d. ISDA telephone number; and ()

e. A statement that the product is “Certified to the North American Standards.” ()

04. Certified Compressed Forage Bale Binding Material. The following information shall be printed in blue ink on orange binding material. ()

a. The words “North American Weed Free Forage Certification Program”; ()

b. ISDA forage manufacturer identification number; ()

c. ISDA emblem; ()

d. ISDA telephone number; and ()

e. A statement that the product is “Certified to the North American Standards.” ()

251. -- 299. (RESERVED).

300. PROCEDURES FOR CERTIFICATION OF FORAGE CUBES/PELLETS/COMPRESSED FORAGE BALES.

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Noxious Weed Free Forage and Straw Certification Rules

PENDING FEE RULE

01. Application. A person desiring to certify forage cubes/pellets/*compressed forage bales* as noxious weed free must make an annual application on the ISDA's forage cube/pellet/*compressed forage bale certification* application form. ()

02. Validity. The application shall be valid from the date of Department approval through December 31 of that calendar year. ()

03. Equipment. Equipment shall be cleaned of any noxious weed *propagules* prior to processing forage for certification. ()

04. Purging. After cleaning equipment, a minimum of five hundred (500) pounds of certified forage must be purged through the entire system prior to processing *certified* forage cubes/pellets/*compressed forage bales*. The five hundred (500) pounds of forage used to eliminate any noxious weed seeds shall not be certified. ()

05. Documentation. A person who manufactures products referenced in Section 300 shall retain the following records for two (2) years: ()

a. All NWFF&S inspection certificates relating to the certified forage delivered to their manufacturing facility each calendar year. ()

b. Quantity of certified forage cubes/pellets/*compressed forage bales* processed each calendar year; and ()

c. Quantity of non-certified forage cubes/pellets/*compressed forage bales* processed each calendar year. ()

301. -- 999. (RESERVED).

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IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.06.33 - ORGANIC FOOD PRODUCTS RULES

DOCKET NO. 02-0633-0601 (FEE RULE)

NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 22-1103 and 22-1106, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

This change will update the incorporation by reference section to reflect the changes to 7 CFR part 205 National Organic Program, effective January 2006. The registration and certification deadlines will be changed to earlier dates in the year. The registration fees will be increased, a late registration fee will be established, and the organic gross sales fee graduated scale will have a cap. Outside certifying agencies and their Idaho clients will be required to register with the Department. The fee increases will allow the program to self-sustain and the deadline changes will increase the efficiency of the program.

Definition of Livestock has been changed at the recommendation of Legislative Services Office to reflect statutory language and to make typographical, transcriptional, and/or clerical corrections and are being published with this Notice of Rulemaking as part of the pending rule. A public hearing was held on October 12, 2006. No comments were received from the public.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The original text of the proposed rule was published in the October 4, 2006 Idaho Administrative Bulletin, Vol. 06-10, pages 78 through 84.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Section 22-1106, Idaho Code.

The registration fees will be increased, a late registration fee of one hundred dollars (\$100) and a late producer certification fee of two hundred fifty dollars (\$250) will be established, and the organic gross sales fee graduated scale will have a cap of five thousand dollars (\$5,000).

Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and

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effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

This rulemaking does not have any negative fiscal impact on the state general fund. Raising the initial registration fees and establishing late registration fees will add approximately \$15,000 annually to the organic dedicated fund. The costs to the organic producer/handler will increase depending on the size of the organic operation.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Margaret Misner, Program Manager (208) 332-8620.

DATED this 15th day of November, 2006.

THIS NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized per Sections 22-1103 and 22-1106, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled as follows:

October 12, 2006 - 7:00 - 8:00 PM
Nampa Civic Center - Central/Banquet Room
311 Third Street South, Nampa, ID 83651

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This change will update the incorporation by reference section to reflect the changes to 7 CFR part 205 National Organic Program, effective January 2006. The registration and certification deadlines will be changed to earlier dates in the year. The registration fees will be increased, a late registration fee will be established, and the organic gross sales fee graduated scale will have a cap. Outside certifying agencies and their Idaho clients will be required to register with the Department. The fee increases will allow the program to self-sustain and the deadline changes will increase the efficiency of the program.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased:

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The registration fees will be increased, a late registration fee of one hundred dollars (\$100) and a late producer certification fee of two hundred fifty dollars (\$250) will be established, and the organic gross sales fee graduated scale will have a cap of five thousand dollars (\$5,000).

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking:

This rulemaking does not have any negative fiscal impact on the state general fund. Raising the initial registration fees and establishing late registration fees will add approximately \$15,000 annually to the organic dedicated fund. The costs to the organic producer/handler will increase depending on the size of the organic operation.

NEGOTIATED RULEMAKING: Informal negotiated rulemaking was conducted in coordination with the Idaho Organic Advisory Council.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Margaret Misner, Program Manager, (208) 332-8620.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 25, 2006.

DATED this 23rd day of August, 2006.

Patrick A. Takasugi, Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 790, Boise, Idaho 83701
Phone: (208) 332-8503 / Fax: (208) 334-2170

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

004. INCORPORATION BY REFERENCE.

The ~~December 21, January 2000~~ Code of Federal Regulations (CFR) 7 CFR Part 205 Subchapter M-Organic Foods Production Act Provisions, except sections 205.620 through 205.642, is incorporated by reference. Copies of this document may be obtained from the Idaho State Department of Agriculture (ISDA), 2270 Old Penitentiary Road, PO Box 790, Boise, Idaho 83701 and are also available at the state law library. (4-2-03)(____)

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(BREAK IN CONTINUITY OF SECTIONS)

010. DEFINITIONS.

01. Agent. Any entity accredited by the Secretary of the United States Department of Agriculture as a certifying agent for the purpose of certifying a production or handling operation. ()

042. Department. The Idaho State Department of Agriculture. (4-2-03)

023. Director. The director of the department of agriculture or the director's designee. (4-2-03)

04. Certification. A document issued by the Department to a producer/handler who is in compliance with this rule who has more than five thousand dollars (\$5,000) annual gross organic sales. ()

05. Educational Activity. Seminar, conference, farm tour, class, or research. ()

036. Food Products. Shall include all agricultural, horticultural, viticultural and vegetable products of the soil, apiary and apiary products, poultry and poultry products, livestock and livestock products, milk and dairy products and aquaculture products. (4-2-03)

047. Handler. Any person or organization who processes, packages, resells, transports or stores organic food products or nonorganic food products. (4-2-03)

058. Livestock. Cattle, swine, sheep, goats, ratites, domestic cervidae and bison. (4-2-03)

069. Organic Certification Seal. The design approved by the director and which when imprinted or affixed on labels, packages or products, or used in advertising in any manner, shall signify that the standards and rules developed in accordance with the provisions of Chapter 11, Title 22, Idaho Code, and all other conditions of the provisions of that chapter have been met. (4-2-03)

0710. Organic Food Product. Any food product that is marketed using the term organic, or any derivative of the term organic in its labeling or advertising. Organic foods are those processed, packaged, transported and stored to retain maximum nutritional value, without the use of artificial preservatives, coloring or other additives, irradiation, or synthetic pesticides. (4-2-03)

0811. Organically Grown Food Products. Food products which are produced without the use of synthetically compounded fertilizers, pesticides, or growth regulators for a period not less than thirty-six (36) months prior to harvest. Organically grown food products are produced under the standards and rules established in accordance with the provisions of Chapter 11, Title 22, Idaho Code, and by other qualified agencies. (4-2-03)

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~~0912.~~ **Person.** Any individual, partnership, association, corporation, or any organized group of persons whether incorporated or not. (4-2-03)

~~103.~~ **Producer.** Any person or organization who: (4-2-03)

a. Grows, raises or produces a food product; and (4-2-03)

b. Sells the food product as, or offers it for sale as, an organic food. (4-2-03)

14. Registration. A document issued by the Department to an organic producer/handler who has five thousand dollars (\$5,000) or less annual gross organic sales; or to an agent certifying organic producers/handlers in the state of Idaho; or to a producer/handler certified by an agent other than the Department. ()

~~145.~~ **Vendor.** Any person who sells organic food products to the consumer or another vendor. (4-2-03)

(BREAK IN CONTINUITY OF SECTIONS)

100. ~~RECERTIFICATION~~ EDUCATIONAL ACTIVITY REQUIREMENTS.

01. Eligibility. In addition to the requirements outlined in ~~7 CFR Part 205 Subchapter M Organic Foods Production Act Provisions "Continuance of Certification,"~~ this rule, all producers and handlers shall ~~attend one seminar~~ participate in at least one (1) approved educational activity annually to be eligible for ~~recertification~~ continued certification. (4-2-03)()

02. Request for Approval. A producer or handler who intends to ~~attending an seminar~~ educational activity, that is either in or out of state, or the organizer of an ~~seminar~~ educational activity, shall submit to the department a request for approval of ~~a seminar the educational activity~~ not less than thirty (30) days prior to the scheduled ~~seminar~~ educational activity. Such a request shall be submitted on a form prescribed by the department. Under exceptional circumstances, as described in writing by the producer or handler requesting approval, the thirty (30) day requirement may be waived. (4-2-03)()

03. List of Attendees. The organizer of an approved ~~seminar~~ educational activity shall submit to the department a list of attendees within thirty (30) days of the conclusion of the educational activity. (4-2-03)()

04. Official Approval. Official approval shall be given only for those ~~seminars~~ educational activities that deal with: (4-2-03)()

a. Organic production; (4-2-03)

b. Integrated pest management; (4-2-03)

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- c. Sustainable agriculture practices; (4-2-03)
- d. Organic handling; or (4-2-03)
- e. Processing practices. (4-2-03)

(BREAK IN CONTINUITY OF SECTIONS)

300. ~~REGISTRATION AND CERTIFICATION~~ REQUIREMENTS, DEADLINES AND FEES ~~SCHEDULE.~~

01. ~~Deadlines for Applications of~~ Registration Requirements and Deadlines. *All organic food producers and organic handlers in Idaho, shall register with the Department by April 30th of each year. The application and fees shall be forwarded to the Department on forms furnished by the Department. Applications received after April 30th will be considered late applications.* All applicants applying for registration with the Department, shall submit the application to the Department on forms prescribed by the Department. (4-2-03)()

a. All organic producers/handlers in Idaho with five thousand dollars (\$5,000) or less annual gross organic sales shall register with the Department by March 31 of each year. ()

b. All organic producers/handlers in Idaho certified by agents other than the Department shall register with the Department within thirty (30) days of initial certification and by March 31st of each year thereafter. ()

c. All agents certifying producers/handlers in Idaho shall register with the Department within thirty (30) days of issuing their first Idaho producer/handler certificate. ()

d. Agents shall provide the Department, by January 2 of each year, a list of Idaho producers/handlers, addresses, and telephone numbers for each certificate issued during the prior calendar year. ()

02. ~~Deadlines for Applications of Certification.~~ *All organic food producers and organic handlers in Idaho shall be certified with the Department or another certifying agent accredited under the National Organic Program, except those production or handling operations exempted in Section 205.101 of 7 Code of Federal Regulations (CFR). All organic food producers and organic handlers certifying with the Department are subject to an annual on-site inspection. All applicants applying for certification with the Department, shall submit the application and fees to the Department on forms furnished by the Department. Applications for certification received prior to April 30th will be given priority scheduling for on-site inspection services. Applications received after April 30th will be considered late applications. Late applicants may lose the opportunity to have their on-site inspection scheduled in conjunction with other applicants in the area, which could result in substantially higher inspection fees. Applications for*

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~~producer certification received after July 1 will not be accepted.~~ (4-2-03)

032. ~~Annual~~ Registration Fees, Late Fees. (4-2-03)()

~~a. Organic producer with annual gross income of more than five thousand dollars (\$5,000) - One hundred dollars (\$100). The annual registration fee is fifty dollars (\$50).~~ (4-2-03)()

~~b. Organic producer with annual gross income of less than five thousand dollars (\$5,000) - Twenty-five dollars (\$25). Applications for registration postmarked after the deadline listed in Subsection 300.01.a. will be assessed a late fee of one hundred dollars (\$100).~~ (4-2-03)()

~~c. Organic handler with annual gross income of more than five thousand dollars (\$5,000) - One hundred dollars (\$100). A person who produces and handles their own organic food products shall pay only one (1) annual registration fee.~~ (4-2-03)()

~~d. Organic handler with annual gross income of less than five thousand dollars (\$5,000) - Twenty-five dollars (\$25).~~ (4-2-03)

~~e. A person who produces and handles their own organic food products shall pay only one (1) registration fee of one hundred dollars (\$100) or twenty-five dollars (\$25) based on gross annual income.~~ (4-2-03)

04. ~~Inspection Fees.~~ (4-2-03)

~~a. The hourly rate is twenty-five dollars (\$25) including travel time.~~ (4-2-03)

~~b. Travel time from an inspector's normal duty station to the inspection site and return to normal duty station will be compensable time charged to the applicant.~~ (4-2-03)

~~c. There will be a minimum charge of twenty-five dollars (\$25) plus mileage for any inspection.~~ (4-2-03)

~~d. A mileage rate as approved by the Board of Examiners will be included in the inspection fees.~~ (4-2-03)

~~e. The costs for chemical residue analysis of organically grown food products may be assessed against the producer or handler.~~ (4-2-03)

~~f. Inspections conducted on weekends, holidays, or after normal office hours will be charged at an hourly rate of thirty-seven dollars and fifty cents (\$37.50) including travel time with a minimum charge of one (1) hour plus mileage.~~ (4-2-03)

05. ~~Graduated Gross Sales Fee Schedule.~~ (4-2-03)

~~a. In addition to the fees prescribed above, all producers and handlers shall remit with their registration application an amount based on their annual gross organic sales during~~

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PENDING RULE

~~the last calendar year, or in the case of a first-time registrant, a projected gross dollar amount for the upcoming calendar year, with a minimum fee of ten dollars (\$10). The graduated gross organic sales fee structure is as follows:~~

0 – 2,000	\$ 10
2,001 – 5,000	\$ 25
5,001 – 10,000	\$ 50
10,001 – 15,000	\$ 75
15,001 – 20,000	\$ 100
20,001 – 25,000	\$ 125
25,001 – 30,000	\$ 150
30,001 – 35,000	\$ 175
35,001 – 50,000	\$ 250
50,001 – 75,000	\$ 375
75,001 – 100,000	\$ 500
100,001 – 150,000	\$ 750
150,001 – 200,000	\$1,000
200,001 – 280,000	\$1,400
280,001 – 375,000	\$1,875
375,001 – 500,000	\$2,500
500,001 and up	0.5% of gross organic sales

~~(4-2-03)~~

~~b. Registration and application fees are non-refundable.~~

~~(4-2-03)~~

301. CERTIFICATION REQUIREMENTS, DEADLINES AND FEES.

01. Certification Requirements and Deadlines. All applicants applying for certification with the Department, shall submit the application to the Department on forms prescribed by the Department by March 31st of each year. ()

a. All organic food producers/handlers in Idaho with annual gross organic sales of more than five thousand dollars (\$5,000) shall be certified with the Department, unless certified by agents other than the Department accredited under the National Organic Program. ()

b. Producers/handlers with annual gross organic income of five thousand dollars (\$5,000) or less may select certification in place of registration. ()

c. All organic food producers and organic handlers certifying with the Department are subject to an annual on-site inspection. ()

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d. Applications for crop producer certification will not be accepted if postmarked after June 1st. ()

e. Livestock producer and handler applications will be accepted throughout the year. ()

02. Certification Fees, Late Fees. ()

a. Organic producers/handlers with annual gross organic income of more than five thousand dollars (\$5,000) up to fifteen thousand dollars (\$15,000) or producers with annual gross income of five thousand dollars (\$5,000) or less requesting certification - One hundred twenty-five dollars (\$125). ()

b. Organic producer/handler with annual gross organic income of more than fifteen thousand dollars (\$15,000) –Two hundred dollars (\$200). ()

c. A person who produces and handles their own organic food products shall pay only one (1) annual certification fee based on gross annual organic sales. ()

d. Applications for producer/handler certification postmarked after March 31st will be assessed a late fee of two hundred-fifty dollars (\$250). ()

03. Certification Inspection Fees. ()

a. The hourly rate is thirty-five dollars (\$35) including travel time. ()

b. Travel time from an inspector's normal duty station to the inspection site and return to normal duty station will be compensable time charged to the applicant. ()

c. There will be a minimum charge of thirty-five dollars (\$35) plus mileage for any inspection. ()

d. A mileage rate as approved by the Board of Examiners will be included in the inspection fees. ()

e. The costs for chemical residue analysis of soil or organically grown food products may be assessed against the producer or handler. ()

f. Inspections conducted on weekends, holidays, or after normal office hours will be charged at an hourly rate of forty-seven dollars and fifty cents (\$47.50) including travel time with a minimum charge of one (1) hour plus mileage. ()

g. Upon approval by the Department, private inspectors may be utilized for operations that submitted their application after March 31 or under special circumstances. The applicant shall bear the total cost of the private inspection. ()

302. GRADUATED GROSS SALES FEE SCHEDULE.

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01. Graduated Gross Sales Fee Table. In addition to the fees prescribed above, all producers and handlers certified by the Department and those registered by the Department with five thousand dollars (\$5,000) or less annual gross organic sales shall remit with their registration/certification application an amount based on their annual gross organic sales during the last calendar year, or in the case of a first-time applicant, a projected gross dollar amount for the upcoming calendar year, with a minimum fee of ten dollars (\$10). The graduated gross organic sales fee structure is as follows:

<u>0 - 2,000</u>	<u>\$ 10</u>
<u>2,001 - 5,000</u>	<u>\$ 25</u>
<u>5,001 - 10,000</u>	<u>\$ 50</u>
<u>10,001 - 15,000</u>	<u>\$ 75</u>
<u>15,001 - 20,000</u>	<u>\$ 100</u>
<u>20,001 - 25,000</u>	<u>\$ 125</u>
<u>25,001 - 30,000</u>	<u>\$ 150</u>
<u>30,001 - 35,000</u>	<u>\$ 175</u>
<u>35,001 - 50,000</u>	<u>\$ 250</u>
<u>50,001 - 75,000</u>	<u>\$ 375</u>
<u>75,001 - 100,000</u>	<u>\$ 500</u>
<u>100,001 - 150,000</u>	<u>\$ 750</u>
<u>150,001 - 200,000</u>	<u>\$1,000</u>
<u>200,001 - 280,000</u>	<u>\$1,400</u>
<u>280,001 - 375,000</u>	<u>\$1,875</u>
<u>375,001 - 500,000</u>	<u>\$2,500</u>
<u>500,001 and up</u>	<u>0.5% of gross organic sales up to \$5,000</u>

()

02. Non-Refundable. Registration and certification application fees are non-refundable. ()

3043. -- 399. (RESERVED).

AGRICULTURE AFFAIRS COMMITTEE

IDAPA 11 - IDAHO STATE POLICE

11.02.01 - RULES GOVERNING THE IDAHO STATE BRAND BOARD

DOCKET NO. 11-0201-0502 (FEE RULE)

NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 25-1160(a), Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change. The rule change raises the brand inspection fee from \$.84 to \$.94, and the pasture cattle fee from \$.42 to \$.47. The Idaho Brand Board fee increase in FY2005 was insufficient to meet Brand Board costs. The FY2005 projection shows a deficit of \$598,800, with balances reaching just \$700 in FY2006. The Idaho Brand Board, in its September 15, 2005 meeting, approved a \$.10 increase in cattle brand inspection fees and a \$.05 increase in pasture cattle brand inspection fees, effective October 1, 2005.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the December 7, 2005 Bulletin, Vol. 05-12, Page 137.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Section 25-1160(a) Idaho Code. Increase cattle brand inspection fee \$.10, and cattle pasture fee \$.05. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: Not applicable. Fee increase for Dedicated Fund 0229-15.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Larry A. Hayhurst at 208-884-7070.

DATED this 15th day of June, 2006.

THIS NOTICE WAS PUBLISHED WITH THE TEMPORARY AND PROPOSED RULE

AGRICULTURE AFFAIRS COMMITTEE

IDAHO STATE POLICE
Rules Governing the Idaho State Brand Board

Docket No. 11-0201-0502 (Fee Rule)
PENDING RULE

EFFECTIVE DATE: The effective date of the temporary rule is October 1, 2005.

AUTHORITY: In compliance with Section 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 25-1160(a), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than February 22, 2006.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The Rule change raises the cattle fee from \$.84 to \$.94, and the pasture cattle fee from \$.42 to \$.47. The Idaho Brand Board fee increase enacted in FY2005 was insufficient to meet Brand Board costs. The FY2005 projection shows a deficit of \$598,800, with balances reaching just \$700 in FY2006. The Idaho Brand Board, in its September 15, 2005 meeting, approved a \$.10 increase in cattle brand inspection fees and a \$.05 increase in pasture cattle brand inspection fees, effective October 1, 2005.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1) (a), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: The Idaho Brand Board fee increase enacted in FY2005 was insufficient to meet Brand Board costs. The FY2005 projection shows a deficit of \$598,800, with balances reaching just \$700 in FY2006. The Brand Board requires increased funding to continue its public safety services.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: the fee is an increase in the cattle fee from \$.84 to \$.94, and the pasture cattle fee from \$.42 to \$.47.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: Not applicable. This rule change impacts only dedicated fund 0229-15-Brand Inspector.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because this matter is under the sole jurisdiction of the Brand Board. During its September 15, 2005 meeting, the Board approved the increases of \$.10 and \$.05, respectively.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Larry

AGRICULTURE AFFAIRS COMMITTEE

IDAHO STATE POLICE
Rules Governing the Idaho State Brand Board**Docket No. 11-0201-0502 (Fee Rule)**
PENDING RULE

A. Hayhurst at 208-884-7070.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before February 22, 2006.

DATED this 1st day of November, 2005.

Larry A. Hayhurst
State Brand Inspector
Idaho State Brand Board
700 S. Stratford
P. O. Box 1177, Meridian, ID 83680-1177
208-884-7070 / Fax 208-884-7097

THE FOLLOWING IS THE TEXT OF THE TEMPORARY RULE

034. SCHEDULE OF FEES FOR THE IDAHO STATE BRAND BOARD.

01. Fees. Fees authorized by the State Brand Board and to be collected by the State Brand Inspector are as follows:

SCHEDULE OF FEES		
Recording of a Brand	\$50 initial recording fee plus a \$10 per year prorated staggered renewal fee every year thereafter	
Transfer of a recorded brand	\$25.00	
Renewal of a recorded brand (Every five years)	\$50.00	
Duplicate brand registration certificate	\$ 1.50	
Ownership and transportation certificate	\$25.00	
Duplicate ownership and transportation certificate	\$ 5.00	
Annual inspection equine or bovine	\$ 5.00	
	CATTLE	HORSES
Brand inspection (per head)	\$. 89 4	\$ 1.50
Idaho livestock to pasture (per head)	\$. 42 7	\$.75
Minimum auction fee	\$50.00	\$50.00
Minimum field brand inspection fee	\$10.00	\$10.00
Courtesy brand inspection	\$. 89 4	\$ 1.50

AGRICULTURE AFFAIRS COMMITTEE

IDAHO STATE POLICE
Rules Governing the Idaho State Brand Board

Docket No. 11-0201-0502 (Fee Rule)
PENDING RULE

Fees To Be Collected By The State Brand Inspector For Other State Agencies:	
Idaho Beef Council (per head)	\$1.00
Idaho Horse Board (per head)	\$3.00
Idaho Department of Agriculture:	
Animal health (per head)	\$.22
Predator control (per head)	\$.04

~~(10-18-04)T~~(10-1-05)T

02. Due and Payable. Pursuant to Section 25-1160(5), Idaho Code, all brand inspection fees, and all other fees required to be collected by the Brand Inspector are due and payable at the time of inspection, except that livestock owners may make arrangements with a deputy brand inspector to pay for all accumulated brand inspection fees within each seven (7) day period. Failure to comply with this rule will cancel the previously approved schedule and shall make all fees immediately due and payable. Feedlots, currently approved by the Idaho Department of Agriculture, and slaughter plants are exempt from the minimum brand inspection fee. Other minimum brand inspection fees may be waived at the discretion of the State Brand Inspector or District Brand Supervisor. (3-30-01)

AGRICULTURE AFFAIRS COMMITTEE

IDAPA 48 - GRAPE GROWERS AND WINE PRODUCERS COMMISSION

48.01.01 - RULES OF THE IDAHO GRAPE GROWERS AND WINE PRODUCERS COMMISSION

DOCKET NO. 48-0101-0601 - (NEW CHAPTER - FEE RULE)

NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 54-3605 and 54-3610, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 4, 2006 Idaho Administrative Bulletin, Vol. 06-10, pages 594 through 596.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased.

Assessing taxes and late fees are authorized by Section 54-3610, Idaho Code, and are necessary to fund the Grape Growers and Wine Producers Commission's role in protecting the public health, preventing fraudulent practices relating to the production and promotion of Idaho grapes and grape by-products as set forth in Section 54-3601, Idaho Code.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Brad Pintler, Commission Chair, (208) 455-8354.

DATED this 1st day of November 2006.

THIS NOTICE WAS PUBLISHED WITH THE TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 1, 2006.

AGRICULTURE AFFAIRS COMMITTEE

GRAPE GROWERS & WINE PRODUCERS COMMISSON Docket No. 48-0101-0601 **Rules of the Idaho Grape Growers/Wine Producers Commission PENDING RULE**

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 54-3605 and 54-3610, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 18, 2006.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The Grape Growers and Wine Producers Commission is authorized by Section 54-3610, Idaho Code, to impose a tax and late fees on the failure to timely pay the tax. The Grape Growers and Wine Producers Commission has approved the taxes and fees set forth in this new title of rules for the 2007 state of Idaho fiscal year and, in compliance with Section 54-3610, Idaho Code, is promulgating this chapter to provide notice and an opportunity to comment to the public and to grape growers and the producers of grape by-products.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(a), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate to protect the public welfare by:

Assessing the taxes and late fees authorized by Section 54-3610, Idaho Code, to fund the Grape Growers and Wine Producers Commission's role in protecting the public health, preventing fraudulent practices relating to the production and promotion of Idaho grapes and grape by-products as set forth in Section 54-3601, Idaho Code.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein:

Assessing the taxes and late fees as described above are authorized by Section 54-3610, Idaho Code, and are necessary to fund the Grape Growers and Wine Producers Commission's role in protecting the public health, preventing fraudulent practices relating to the production and promotion of Idaho grapes and grape by-products as set forth in Section 54-3601, Idaho Code.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the necessity to protect the public health, safety, and welfare.

AGRICULTURE AFFAIRS COMMITTEE

GRAPE GROWERS & WINE PRODUCERS COMMISSON Docket No. 48-0101-0601
Rules of the Idaho Grape Growers/Wine Producers Commission PENDING RULE

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Brad Pintler, Commission Chair, (208) 455-8354.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 25, 2006.

DATED this 23rd day of August, 2006.

Brad Pintler, Commission Chair
Idaho Grape Growers and Wine Producers Commission
117 North 9th Ave., Suite 2
Caldwell ID 83605
Phone: (208) 455-8354; Fax: (208) 455-8364

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

IDAPA 48 TITLE 01 CHAPTER 01

RULES OF THE IDAHO GRAPE GROWERS AND WINE PRODUCERS COMMISSION

000. LEGAL AUTHORITY.

This chapter is adopted in accordance with Section 54-3605(15), Idaho Code. (7-1-06)T

001. TITLE AND SCOPE.

01. Title. These rules shall be cited in full as IDAPA 48.01.01, “Rules of the Idaho Grape Growers and Wine Producers Commission”. (7-1-06)T

02. Scope. These rules include, but are not limited to, levy of taxes and penalties as provied by Section 54-3610, Idaho Code. (7-1-06)T

002. WRITTEN INTERPRETATIONS.

This Commission may have written statements which pertain to the interpretation of the rules of this chapter, or to the documentation of compliance with the rules of this chapter. These documents are available for public inspection at the Commission office. (7-1-06)T

003. ADMINISTRATIVE APPEALS

The Idaho Rules of Administrative Procedure of the Attorney General on contested cases, IDAPA

AGRICULTURE AFFAIRS COMMITTEE

GRAPE GROWERS & WINE PRODUCERS COMMISSION Docket No. 48-0101-0601 **Rules of the Idaho Grape Growers/Wine Producers Commission PENDING RULE**

04.11.01, “Idaho Rules of Administrative Procedure,” Section 100, et seq., shall apply. (7-1-06)T

004. INCORPORATION BY REFERENCE.

There are no documents that have been incorporated by reference into these rules. (7-1-06)T

005. OFFICE INFORMATION.

01. Street Address. The offices of the Commission are located at 117 North 9th Ave., Suite 2, Caldwell, Idaho. (7-1-06)T

02. Mailing Address. The mailing address of the Commission is 117 North 9th Ave., Suite 2, Caldwell, Idaho 83605. (7-1-06)T

03. Telephone Number. The telephone number of the Commission is (208) 455-8354. (7-1-06)T

04. Facsimile. The Commission’s FAX number is (208) 455-8364. (7-1-06)T

05. Electronic Address. The Commission’s web address is <http://www.idahowines.org/>. (7-1-06)T

006. PUBLIC RECORDS ACT COMPLIANCE.

Commission records are subject to the provisions of the Idaho Public Records Act, Title 9, Chapter 3, Idaho Code. (7-1-06)T

007. -- 009. (RESERVED).

010. DEFINITIONS.

The definitions set forth in Title 54, Chapter 36, Idaho Code, shall apply to this chapter. (7-1-06)T

011. -- 019. (RESERVED)

020. TAX AND LATE PAYMENT PENALTY.

01. Levy and Rate of Tax. In accordance with Section 54-3610, Idaho Code, a tax is levied and imposed on wineries and grapes used, grown, or purchased for the production of wine in Idaho. The rate of tax shall be: (7-1-06)T

a. One hundred dollars (\$100) per winery. (7-1-06)T

b. Five dollars (\$5) per acre of grapes cultivated in Idaho for the purpose of vinification. (7-1-06)T

c. Five dollars (\$5) per ton for grapes purchased from producers outside Idaho for the production of wine in Idaho. (7-1-06)T

d. Five dollars (\$5) per one hundred sixty-seven (167) gallons, or any portion thereof, of grape juice purchased from producers outside Idaho for the production of wine in Idaho.

AGRICULTURE AFFAIRS COMMITTEE

GRAPE GROWERS & WINE PRODUCERS COMMISSON Docket No. 48-0101-0601 **Rules of the Idaho Grape Growers/Wine Producers Commission PENDING RULE**

(7-1-06)T

02. Maximum Levy. The total taxes paid by any individual winery shall not exceed three hundred dollars (\$300) annually. (7-1-06)T

03. Payment of Tax. The producer cultivating grapes for the production of wine shall pay the tax levied upon the producer. Each winery shall pay the tax levied upon the winery. Purchasers of grapes grown or grape juice produced outside Idaho shall pay taxes levied on such grapes and grape juice. All taxes shall be paid on or before June 30 of each year. (7-1-06)T

04. Late Payment Penalty. Persons making payment of the levied tax after the date set forth in this chapter shall be subject to a late payment penalty of fifteen percent (15%) per annum on the amount due. In addition to the late payment penalty, the commission shall be entitled to recover all costs, fees, and reasonable attorney's fees incurred in the collection of the tax and penalty provided for in Section 020 of these rules. (7-1-06)T

05. Opt Out Alternative. A grower or producer may opt out of the levy of tax by submitting a letter to the Commission no later than June 30 of each year stating intent to opt out of the application of the provisions of Title 54, Chapter 36, Idaho Code, for the upcoming fiscal year. The letter shall include the grower or producer's name and address. (7-1-06)T

021. -- 999. (RESERVED).